

BASIS FOR THE AMENDMENT

The specification has been amended to correct an inadvertent typographical error.

Claims 16 and 17 have been added directed to M being Cu, as in the examples of the case.

Claims 18-20 have been added limiting the underlayer to be MgO as in the examples of the case.

REMARKS/ARGUMENTS

Favorable reconsideration of this application is requested.

Claims 1-20 are in the case.

Claims 1-15 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Coffey et al.

It is submitted that the claims are not anticipated by this reference, within the meaning of 35 U.S.C. § 102, nor obvious therefrom, within the meaning of 35 U.S.C. § 103, even if the rejection is to be considered as having been made under this Section of the Statute.

The claimed invention provides for a magnetic recording medium capable of lowering a substrate temperature and annealing temperature required for forming an ordered phase. In order to promote formation of an ordered alloy phase, the additive element is required to be dissolved in the ordered alloy. In comparison, the composition disclosed by Coffey et al. merely sets forth the ratio of the elements present in its target, such not necessarily defining the composition of the crystal grains.

A Declaration Under 37 C.F.R. § 1.132 is submitted herewith substantiating this by direct comparative evidence. Such direct comparative evidence clearly establishes that Coffey et al. is not anticipatory of Applicants' discovery.

Moreover, with regard to added Claims 16 and 17, specific characteristics of the therein claimed crystal grains are not disclosed by the reference.

Also, with regard to added Claims 18-20, MgO as an underlayer also is not disclosed by the reference.

Accordingly, anticipation, within the meaning of 35 U.S.C. § 103, requiring complete identity in the prior art is not present. Note *Ex parte Levy*, 17 USPQ 2d 1461.

Further, the unobviously superior results obtained by the practice of the claimed invention, as so shown by the results in the examples of the case, rebut any possible presumption of obviousness made out by the reference.

Withdrawal of the rejection of the claims under 35 U.S.C. § 102 thus is requested.

It is submitted that this application is now in condition for allowance and which is solicited.


Respectfully submitted,

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